

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In re)	
)	
Minority Television Project, Inc.)	
License of Noncommercial Television Station)	File No. _____
KMTP, Channel *32)	
For Carriage of KMTP(TV), San Francisco,)	
California)	

To: Chief, Media Bureau

COMPLAINT FOR CARRIAGE AGAINST DISH NETWORK

I. INTRODUCTION

Minority Television Project, Inc., (“MTP”), licensee of non-commercial television station KMTP-TV, Channel *32, San Francisco, California (“KMTP”), by its attorneys, hereby files this complaint, pursuant to Sections 76.7 and 76.66(m)(3) of the Commission’s Rules, against Dish Network LLC. (“Dish”), a satellite carrier providing local-into-local service to the community of San Francisco, California. KMTP submits that it was recently unlawfully denied carriage on the system in violation of Section 76.66(d)(1)(i) of the Commission’s Rules. KMTP requests an order directing Dish to begin carriage of KMTP to restore carriage. In support of its Complaint KMTP submits the following:


Attached to this complaint is a copy of the letter received from Dish.¹ It denies carriage for only one reason: Dish asserts that MTP provided notice to it by “Priority Express Mail,

¹ Letter to Booker Wade from Teresa Cain, October 9, 2017.

return receipt requested,” instead of “Certified Mail, return receipt requested.” Dish asserts for this sole reason it may deny carriage to KMTP! This is the sole reason given in the denial letter. Clearly, this is an attempt to place form over substance. There is no deficiency in the notice given to Dish of the mandatory carriage requested by MTP. All of the information required by Section 76.66(d)(1) of the Commission’s Rules is provided, and Dish does not dispute this. Rather, Dish asserts that, because the notice came via Priority Express Mail, instead of Certified Mail, Dish may deny the carriage request.²

Given the clear issue presented, and the clear lack of any justification for this hyper-technical reading of the Commission’s rule, KMTP submits that the Commission can and should immediately order Dish to begin carriage of KMTP.

Respectfully submitted,



James L. Winston
RUBIN, WINSTON, DIERCKS, HARRIS
& COOKE, LLP
1201 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20036
(202) 861-0870

² Priority Express Mail is not only a functional equivalent of Certified Mail, it is a superior service in that it provides next day delivery and it is traceable. Put differently, Certified Mail is a lesser included service to Priority Express Mail. Also, Priority Express Mail did not exist at the time of the adoption of the Section 76.66.



DISH Network L.L.C.
9601 S. Meridian Blvd., Englewood, CO 80112
303.723.1000

October 9, 2017

Booker Wade
KMTP-TV
719 Woodside Way
San Mateo, CA 94401

Re: Mandatory Carriage Election
KMTP – San Francisco-Oakland-San Jose CA DMA

Dear Mr. Wade:

We received KMTP's letter, dated September 27, 2017, electing mandatory carriage for the election cycle that commences on January 1, 2018, and ends on December 31, 2020. Pursuant to federal regulations, elections for mandatory carriage must be sent by certified mail, return receipt requested. Your letter was sent to DISH by United States Postal Service Priority Mail, and therefore is not a valid election. As such, your election is rejected based on the foregoing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Teresa Cain".

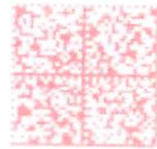
Teresa Cain
DISH Programming, Locals Operations

dish
9601 S. Meridian Blvd.
Englewood, CO 80112

CERTIFIED MAIL



7016 0750 0000 3383 3987



U.S. POSTAGE >> PITNEY BOWES
ZIP 80112 \$ 006.56⁰
02 4W
0000350625 OCT 10 10:17

Booker W. ¹/₂
KMTP-TV
719 Woodside Way
San Mateo, CA 94401

Handwritten: 10/17/10 25-17
10-31-17

9440181509 0012



CERTIFICATE OF SERVICE

I, Kathy Nickens, do hereby certify that on November 9, 2017 a true copy of the foregoing
"Complaint for Carriage Against Dish Network" was mailed, first class U.S. mail, postage pre-paid
to the following:

Dish Network LLC
9601 S. Meridian Blvd.
Englewood, CO 80112
Attention: Teresa Cain
Dish Programming, Local Operations


Kathy Nickens